

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Noemi Martin	Team: Team # 5	CCRB Case #: 201014236	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Sunday, 10/17/2010 3:30 AM	Location of Incident: In front of § 87(2)(b)	Precinct: 75	18 Mo. SOL 4/17/2012	EO SOL 4/17/2012	
Date/Time CV Reported Sun, 10/17/2010 4:52 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Sun, 10/17/2010 4:52 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Wilson Alba	09921	936109	PSA 2
2. SGT Thomas Gagliardi	00996	930188	PSA 2
3. POM Andrew Leiper	11265	942052	PSA 2

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Peter Tam	26969	936085	PSA 2
2. POM Josue Carvajal	26537	936315	PSA 2

Officer(s)	Allegation	Investigator Recommendation
A.POM Wilson Alba	Force: PO Wilson Alba used physical force against § 87(2)(b)	
B.SGT Thomas Gagliardi	Force: Sgt. Thomas Gagliardi used physical force against § 87(2)(b)	
C.POM Andrew Leiper	Force: PO Andrew Leiper physical force against § 87(2)(b)	

Case Summary

On October 17, 2010, § 87(2)(b) filed this complaint with the CCRB via the call processing system. On the same date, § 87(2)(b) also filed this complaint with the CCRB via the call processing system (encl. 11A-11C) and SSA § 87(2)(b) filed the complaint with IAB, where it received Log Number 10-51765 (encl. 10A-10D).

On October 17, 2010, at approximately 3:30 a.m., § 87(2)(b), § 87(2)(b), § 87(2)(b) and § 87(2)(b) were arrested by officers from PSA2 for criminal possession of marijuana. The following allegations resulted:

- **Allegation A-Force:** PO Wilson Alba used physical force against § 87(2)(b). Because § 87(2)(g)
- **Allegation B-Force:** Sgt. Thomas Gagliardi used physical force against § 87(2)(b). § 87(2)(g)
- **Allegation C-Force:** PO Andrew Leiper physical force against § 87(2)(b). Because § 87(2)(g)

Results of Investigation

Civilian Statements

Complainant/Victim:

- § 87(2)(b) is a § 87(2)(b).

IAB Testimony

On October 17, 2011, § 87(2)(b) provided an initial statement to IAB SDS Massoni (encl. 10A-10D). § 87(2)(b) reported that an officer punched § 87(2)(b) and § 87(2)(b) as they were sitting in the back of the police vehicle. § 87(2)(b) saw § 87(2)(b) bleeding from the lip or the nose.

CCRB Testimony

On October 17, 2011, § 87(2)(b) provided an initial statement to the CCRB (encl. 10A-10C). On October 21, 2010, § 87(2)(b) provided the CCRB with a telephone statement (encl. 17A) and on November 4, 2010, she provided an additional telephone statement to the CCRB (encl. 17B). Her statements were consistent and are summarized below.

On October 17, 2010, at approximately 3:30 a.m., § 87(2)(b) was at home when her mother, § 87(2)(b) received a phone call from her son, § 87(2)(b). § 87(2)(b) told his mother that he had been arrested nearby and asked her to come to his aid. § 87(2)(b) ran over to 185 Wortman Avenue and saw an unmarked black police vehicle and an unmarked grey bluish minivan. There were approximately 7 officers on the scene. § 87(2)(b) saw an officer, whom she later identified from his badge as "Gigliardi," punching § 87(2)(b) and a family friend, § 87(2)(b). § 87(2)(b) described this officer as a white male, 5'6" tall, with a stocky build, and in uniform. This investigation identified this officer as Sgt. Thomas Gagliardi. § 87(2)(b) and § 87(2)(b) were handcuffed and sitting inside the police car in the backseat. § 87(2)(b) yelled, "Why are you hitting him?" and Sgt. Gagliardi replied, "Shut the fuck up."

§ 87(2)(b) continued to argue and question Sgt. Gagliardi, when a second officer, who she later identified from his badge as PO Tam, said to calm down. § 87(2)(b) described PO Tam as an Asian male, with a chubby build, black hair, 5'7" tall, and in uniform. This investigation identified this officer as PO Peter Tam. § 87(2)(b) was then pulled out of the car by several officers and walked to the van. Along the way, the officers punched § 87(2)(b). § 87(2)(b) was scheduled for two appointments with the CCRB, but failed to appear and did not call to cancel or reschedule.

Complainant: § 87(2)(b)

- § 87(2)(b) a § 87(2)(b). § 87(2)(b) is § 87(2)(b)'s aunt.

IAB Testimony

On October 17, 2011, SSA § 87(2)(b) filed this complaint with IAB (encl. 10A-10D). § 87(2)(b) did not witness the incident, but was informed of the arrests of § 87(2)(b) and § 87(2)(b). Because § 87(2)(b) did not witness the incident, her statement was not necessary.

Victim: § 87(2)(b)

- § 87(2)(b) a § 87(2)(b).

Pre-Arrest Screening Form (encl. 33A-33C)

§ 87(2)(b) complained to the Department of Correction personnel of an injury to his chin, which he attributed to the NYPD. The nature of the injury is unknown.

CCRB Testimony

On October 21, 2010, § 87(2)(b) provided a telephone statement to the CCRB (encl. 14) and on November 1, 2010, he was interviewed at the CCRB (encl. 15A-15F). He was consistent in his statements, which are summarized below.

On October 17, 2010, at approximately 3:30 a.m., § 87(2)(b) and § 87(2)(b) a friend of 8 years, were hanging out in front of 185 Wortman Avenue in Brooklyn. This investigation identified § 87(2)(b)'s friend as § 87(2)(b). § 87(2)(b) was wearing a black puffy jacket with emblems and a multicolored hooded sweatshirt. Neither he nor § 87(2)(b) were carrying anything. They had been at the location for approximately 15 minutes when § 87(2)(b) observed a champagne colored four door unmarked police vehicle drive by. There were two uniformed officers inside the vehicle. A few minutes later, the officers approached § 87(2)(b) and § 87(2)(b) on foot and asked for their IDs. § 87(2)(b) handed the first officer, described as a white male, taller than 5'7", bald, and in his 30s, his ID. This investigation identified this officer as Sgt. Thomas Gagliardi. The second officer, who was described as a Hispanic male, taller than 5'7", with short spikey dark hair, stood with § 87(2)(b). This investigation identified this officer as PO Andrew Leiper. Sgt. Gagliardi wrote down § 87(2)(b)'s pedigree information and told him that he would be issued a summons and then released.

After approximately 7 minutes, a third officer, described as a white male, 5'7" tall, with a stocky build, and in his 50s, came from behind the building. This investigation identified this officer as PO Wilson Alba. PO Alba yelled out, "Put them in cuffs." PO Alba said that he had seen § 87(2)(b) and § 87(2)(b) smoking a marijuana cigarette. § 87(2)(b) denied that either he or § 87(2)(b) had been smoking. Sgt. Gagliardi placed handcuffs on § 87(2)(b) and PO Leiper handcuffed § 87(2)(b). § 87(2)(b) asked Sgt. Gagliardi why he was being

handcuffed since he gave him his ID and did not run. The officers did not respond and he and § 87(2)(b) were placed inside the police vehicle. The officers confiscated § 87(2)(b) cell phone, but did not take § 87(2)(b)'s cell phone. While inside the police vehicle, § 87(2)(b) managed to go inside of § 87(2)(b)'s pocket and remove his cell phone. § 87(2)(b) asked § 87(2)(b) to call § 87(2)(b)'s mother to tell her what was going on. While § 87(2)(b) was on the phone, PO Alba leaned into the vehicle and sat on the driver's seat with his knees facing the back of the vehicle and took the phone away from § 87(2)(b).

§ 87(2)(b) asked why he was being arrested and PO Alba replied, "Shut up." § 87(2)(b) replied, "What do you mean shut up? I don't care about the outfit and badge." PO Alba said that he would take off the handcuffs if § 87(2)(b) wanted to fight him. PO Alba then slapped § 87(2)(b) in the face. § 87(2)(b) asked, "Why did you smack me? Do you feel tough hitting me in the face when I have cuffs on?" PO Alba did not respond and exited the vehicle. Another police vehicle, a brown minivan, had arrived with two additional officers, identified through this investigation as PO Peter Tam and PO Josue Carvajal. Sgt. Gagliardi, PO Alba, PO Leiper and PO Tam then grabbed § 87(2)(b) and dragged him out of the vehicle, punched him in the legs, and brought him to the minivan. § 87(2)(b) stated that § 87(2)(b) was moving around and "not happy," but denied that he was resisting the arrest.

By this time, § 87(2)(b)'s mother, § 87(2)(b) and sister, § 87(2)(b) had arrived on the scene. § 87(2)(b) asked the officers, "What are you doing to my nephew?" referring to § 87(2)(b). § 87(2)(b) said, "What are you doing to my brother?" Multiple officers told her to, "Shut up." § 87(2)(b) and § 87(2)(b) were taken to the PSA2 stationhouse in separate vehicles. Once at the stationhouse, § 87(2)(b) asked another officer, who was sitting behind the desk, to go to the hospital, saying that he'd "feel more comfortable at the hospital." The officer said, "When I see you on the floor, I'll make sure medical is here for you." § 87(2)(b) was later treated by a female EMT, who cleaned up his lip and noted that his tooth had cut his lip. She made the officer re-write the medical treatment report, because it did not note his injuries.

Witness: § 87(2)(b)

- § 87(2)(b) a § 87(2)(b)
§ 87(2)(b). § 87(2)(§ 87(2)(b))
§ 87(2)(b)

911 Call

The SPRINT report (encl. 35A-35B) revealed that on October 17, 2010, at 3:31 a.m., § 87(2)(b) called 911 and reported that the police had arrested her son and nephew and "beat the shit out" of § 87(2)(b).

IAB Testimony

On October 17, 2011, § 87(2)(b) provided an initial statement to IAB SDS Massoni (encl. 10A-10D). § 87(2)(b) reported that she witnessed an officer punched § 87(2)(b) in the legs as he was being placed inside of the prisoner van.

CCRB Testimony

On October 21, 2010, § 87(2)(b) provided a telephone statement to the CCRB (encl. 12) and on November 1, 2010, she was interviewed at the CCRB (encl. 13A-13D). She was consistent with § 87(2)(b) and added the following:

When § 87(2)(b) arrived at the scene, she observed § 87(2)(b) in handcuffs seated in the backseat of the police vehicle. § 87(2)(b) approached a police officer, whom she later

identified from his badge as PO Tam and asked him why § 87(2)(b) was arrested. PO Tam said that he was smoking marijuana. § 87(2)(b) noticed § 87(2)(b) also in handcuffs, being placed inside of an unmarked police van, which was parked behind the unmarked car. As § 87(2)(b) was being placed inside the van, an officer who was described as a white male, 5'9" tall, and in uniform, beating him in the upper thigh area of his right leg with a closed fist. This investigation identified this officer as PO Leiper. § 87(2)(b) estimated that § 87(2)(b) was struck at least 3 times. § 87(2)(b) denied that § 87(2)(b) was resisting, but admitted that he was moving around because he was getting hit.

Attempts to Contact Civilians

After numerous attempts to contact § 87(2)(b) he appeared at the CCRB without an appointment or photo identification. § 87(2)(b) updated his contact information and he was scheduled for a telephone interview for the following day. Attempts to contact § 87(2)(b) afterward were unsuccessful, because his telephone number was no longer in service.

NYPD Statements:

Subject Officer: Sgt. THOMAS GAGLIARDI

- *Sgt. Gagliardi, a § 87(2)(b)*
- *On October 17, 2010, Sgt. Gagliardi worked from 9:15 p.m. to 4:12 a.m. He was the conditions supervisor and working with PO Leiper and PO Alba. He was in uniform and was the operator of unmarked vehicle #9818.*

Memo Book (encl. 19A-19C):

- At 3:20 a.m., Sgt. Gagliardi noted two males, identified through this investigation as § 87(2)(b) and § 87(2)(b) were stopped.
- At 3:30 a.m., § 87(2)(b) and § 87(2)(b) were placed under arrest by PO Alba for possession of marijuana and resisting arrest.
- At 4:00 a.m., Sgt. Gagliardi spoke to IAB in regards to 185 Wortman Avenue.

CCRB Testimony

On March 8, 2011, Sgt. Gagliardi of PSA2 was interviewed at the CCRB (encl. 21A-21C). On October 17, 2010, at approximately 3:20 a.m., Sgt. Gagliardi, PO Alba, and PO Leiper were parked across the street from 185 Wortman Avenue, observing the location, a NYCHA building, because of numerous narcotics complaints. The area was well lit and there were no pedestrians in the area. At approximately 3:20 a.m., they observed two male individuals, later identified as § 87(2)(b) and § 87(2)(b) engaging in actions indicative of smoking marijuana. Specifically, one of the individuals was cutting open a cigar and removing the tobacco and the other was squeezing marijuana from a plastic bag into the cigar wrapper. Sgt. Gagliardi observed the marijuana pass from one male to the other. Photographs of § 87(2)(b) and § 87(2)(b) were shown to Sgt. Gagliardi, but he did not recall which male was holding the marijuana.

After several minutes, Sgt. Gagliardi drove around the back of the building so that the individuals would not see them. The officers approached the men from the rear of the building. They must have heard them coming and threw the marijuana cigar to the ground. Sgt. Gagliardi saw that the cigar was brown and approximately 3" in length. Because the cigarette was not closed, the marijuana fell out when they dropped it. PO Leiper and PO Alba surrounded the men and Sgt. Gagliardi picked up the marijuana cigar. Sgt. Gagliardi recognized the marijuana based

on the odor, from prior arrests, and from his police training. Sgt. Gagliardi asked the males about the marijuana, but they disclaimed ownership.

While Sgt. Gagliardi and PO Leiper were handcuffing the individuals, PO Alba stepped to the side of the building to look out for other people approaching. Sgt. Gagliardi placed the males in the vehicle and called the precinct to request a transport vehicle. While waiting for the transport vehicle, PO Alba sat in the front seat of the vehicle to obtain § 87(2)(b) and § 87(2)(b) pedigree information. Sgt. Gagliardi was standing at the rear driver's side door and did not hear the conversation. Sgt. Gagliardi was later informed by PO Alba that one of the individuals had attempted to make a phone call. PO Alba told him that he could not make a phone call, but he could once they returned to the stationhouse. PO Alba reached into the backseat to take the phone. One of the men attempted to head butt PO Alba when he tried to remove the phone, and the other male spit in PO Alba's face. Sgt. Gagliardi did not see this, but observed the car moving and opened the rear driver's side door. He observed PO Alba holding the individuals down in the back seat with his hand. PO Alba did not use any other force.

The prisoner van, an unmarked minivan, driven by PO Tam and PO Carvajal, arrived at the scene. Sgt. Gagliardi opened the car door and grabbed § 87(2)(b) by his arms in attempt to pull him out of the vehicle. As Sgt. Gagliardi tried to pull § 87(2)(b) out, he attempted to kick him in the groin. Sgt. Gagliardi was able to close his legs and catch § 87(2)(b) foot between his knees, before he was struck. Sgt. Gagliardi grabbed § 87(2)(b) by the ankle and pulled him out of the car. Once outside, § 87(2)(b) was stood up and Sgt. Gagliardi walked him to the van. Sgt. Gagliardi denied that he or any other officer punched § 87(2)(b) and no other force was necessary to place him in the van.

Subject Officer: PO WILSON ALBA

- PO Alba, a § 87(2)(b) § 87(2)(b)
- On October 16, 2010, PO Alba worked from 7:30 p.m. to 8:05 a.m. on October 17, 2010. He had the same assignment as Sgt. Gagliardi.

Memo Book (encl. 24A-24D):

- At 3:20 a.m., PO Alba noted that two males, identified through this investigation as § 87(2)(b) § 87(2)(b) and § 87(2)(b) were stopped for suspicion for criminal possession of marijuana in front of 185 Wortman Avenue.
- At 3:30 a.m., § 87(2)(b) and § 87(2)(b) were placed under arrest at the location. § 87(2)(b) DOB is § 87(2)(b). § 87(2)(b) resisted getting in the police vehicle by kicking and spitting at the officer. § 87(2)(b) DOB § 87(2)(b) § 87(2)(b) resisted by trying to head bump officer in police vehicle 9818.

UF-61 Complaint Report/On-Line Booking System (OLBS)/ Supporting Deposition

The UF-61 (encl. 25A-25B), the OLBS reports (encl.25C-25F), and the supporting depositions (encl. 26A-26H) are all consistent that § 87(2)(b) and § 87(2)(b) were arrested after being observed with marijuana in plain view. § 87(2)(b) resisted arrest by trying to head bump PO Alba and § 87(2)(b) spit at the officer.

Property Voucher

Property voucher § 87(2)(b) (encl. 27) lists the marijuana cigar found on § 87(2)(b)

CCRB Testimony

On May 19, 2011, PO Wilson Alba of PSA2 was interviewed at the CCRB (encl. 28A-28C). PO Alba was consistent with Sgt. Gagliardi and added the following information:

PO Alba approached the group and heard Sgt. Gagliardi and PO Leiper tell them to turn around because they were being placed under arrest. Sgt. Gagliardi told them that they would be released with a desk appearance ticket if they qualified. PO Alba stated that the men were calm and compliant during this time. PO Alba had seen § 87(2)(b) throw the cigarette on the ground and told Sgt. Gagliardi about this, who later recovered it. The males were then placed inside of the car. A transport vehicle was called to the scene and PO Carvajal and PO Tam arrived shortly after.

While PO Alba was standing by the passenger's side of the vehicle, he saw § 87(2)(b) with a black object in his hand. The car windows were up but he could see inside. The vehicle does not have a divider. PO Alba did not know what the object initially was, but got inside of the vehicle and from the front seat, he leaned towards the back and tried to grab the object. As he did this, § 87(2)(b) pulled his arm back and § 87(2)(b) tried to head butt PO Alba. PO Alba was struck on his left hand as he extended his hand out to block the hit and shoved § 87(2)(b) in the chest, causing him to sit back into his seat. PO Alba denied that he slapped § 87(2)(b) but admitted that he did hit him in the head, but could not specify where. PO Alba was able to grab the object and realized that it was a cell phone. PO Alba stated that he only struck § 87(2)(b) once and did not use any other force against him.

At the same time, § 87(2)(b) who was to § 87(2)(b)'s right, spit at PO Alba. The spit landed on PO Alba's chest and PO Alba extended his other arm in the same manner to block any additional spit. PO Alba made contact with § 87(2)(b) chest with an open palm. PO Alba did not use any other force against § 87(2)(b). Sgt. Gagliardi, who was standing outside, opened the driver's side rear door and grabbed § 87(2)(b) by the arms, pulling him out. § 87(2)(b) began to kick and move around. § 87(2)(b) struck Sgt. Gagliardi near the groin area with one of his kicks. PO Alba did not see if PO Leiper, PO Carvajal or if PO Tam assisted Sgt. Gagliardi. § 87(2)(b) was then dragged by the arms by Sgt. Gagliardi to the van, which was a couple of feet away, and placed inside. § 87(2)(b) continued to kick all the way to the van. PO Alba did not assist Sgt. Gagliardi. PO Alba denied that another officer used any additional force against § 87(2)(b) or § 87(2)(b).

Subject Officer: PO ANDREW LEIPER

- PO Leiper, a § 87(2)(b)
- On October 16, 2010, PO Leiper worked from 7:30 a.m. to 4:05 a.m. on October 17, 2010. PO Leiper had the same assignment as Sgt. Gagliardi and PO Alba.

Memo Book (encl. 29A-29C):

- At 3:20 a.m., PO Leiper noted that he had two males, identified through this investigation as § 87(2)(b), § 87(2)(b), § 87(2)(b) and § 87(2)(b) stopped in front of 185 Wortman Avenue.
- At 3:30 a.m., § 87(2)(b) and § 87(2)(b) were placed under arrest.

CCRB Testimony

On June 15, 2011, PO Andrew Leiper of PSA2 was interviewed at the CCRB (encl. 30A-30B). He was consistent with Sgt. Gagliardi and PO Alba and added the following:

Once § 87(2)(b) and § 87(2)(b) were placed inside of the police vehicle, PO Leiper stood with his back facing the rear driver's side and facing Sgt. Gagliardi. All of a sudden, Sgt. Gagliardi ran over to the vehicle and PO Leiper turned around to see what was going on. PO

Leiper did not hear any conversation from inside of the vehicle. PO Leiper saw PO Alba inside of the vehicle with his arms extended forward holding § 87(2)(b) and § 87(2)(b) down by their chests. PO Leiper did not see PO Alba make contact with anyone's face or head. PO Alba was seated in the front seat at the time and one of the males was rocking his torso and head front and back. PO Leiper did not see if PO Alba was ever struck. PO Leiper went over to Sgt. Gagliardi and opened the car door. PO Leiper did not recall if he was on the driver or passenger's side. PO Leiper assisted Sgt. Gagliardi in removing one of the males, identified through this investigation as § 87(2)(b) from the vehicle by grabbing his upper arms. The prisoner van, including PO Tam and PO Carvajal arrived at this time. PO Leiper did not recall if PO Tam or PO Carvajal become involved with either prisoner. Sgt. Gagliardi and PO Leiper walked § 87(2)(b) over to the prisoner van. At one point, § 87(2)(b) refused to budge and the officers had to push him by the arms to get him to walk, but no additional force was used. PO Leiper denied that any officer punched or slapped anyone.

Witness Officer: PO PETER TAM

- *PO Tam, a § 87(2)(b)*
- *On October 17, 2010, PO Tam worked from 9:30 PM to 6:05 a.m. on October 18, 2010, assigned to prisoner van with PO Carvajal.*

Memo Book (encl. 22A-22D):

- At 3:25 a.m., PO Tam was instructed to respond to 185 Wortman Avenue to transport a prisoner for RMP 1898.
- At 3:30 a.m., PO Tam transported one male, later identified as § 87(2)(b) from 185 Wortman Avenue to the stationhouse.
- At 3:35 a.m., arrived at stationhouse and went on administrative duty.

CCRB Testimony

On Friday, March 25, 2011, PO Peter Tam of PSA 2 was interviewed at the CCRB (encl. 23A-23B). PO Tam added the following information:

PO Tam and PO Carvajal arrived at the scene where Sgt. Gagliardi and PO Alba had § 87(2)(b) in custody. PO Tam did not recall which other officers were on scene and he was not informed why § 87(2)(b) had been arrested. PO Tam did not recall if he exited van at scene. He did not recall § 87(2)(b)'s physical appearance or demeanor. PO Tam did not have any confrontation or discussion with § 87(2)(b) and did not place him in the van and did not know which officer did. PO Tam was not aware of any other arrests at the scene and did not transport any other prisoners. He did not recall if § 87(2)(b) resisted being placed inside of the van or if officers used force to place him inside.

Witness Officer: PO JOSUE CARVAJAL

- *PO Carvajal, a § 87(2)(b)*
- *On October 17, 2010, PO Carvajal worked from 7:30 p.m. to 4:05 a.m. and he had the same assignment as PO Tam.*

Memo Book (encl. 31A-31C):

- At 3:25 a.m., PO Carvajal was called to 185 Wortman Avenue for prisoner transport.
- At 3:30 a.m., PO Carvajal arrived at the scene.

CCRB Testimony

On June 15, 2011, PO Josue Carvajal of PSA2 was interviewed at the CCRB (encl. 32A-32B). PO Carvajal was consistent with PO Tam and added the following:

PO Carvajal exited the van and opened the door for the prisoner, identified through this investigation as § 87(2)(b) but did not recall interacting with him in any other way. PO Carvajal did not recall Sgt. Gagliardi having any difficulties in walking § 87(2)(b) to the van or an officer use force against him. PO Carvajal did not recall PO Tam ever exiting the van.

Medical Records

Ambulance Call Report

On January 21, 2011, the subpoena for the ambulance call report for FDNY, but was returned with negative results (encl. 43B).

Medical Treatment of Prisoner Form

The medical treatment of prisoner form (encl. 20) indicated that § 87(2)(b) takes medication for seizures. There were no injuries or complaints of injury noted. There is also no indication that § 87(2)(b) received any medical attention.

Pre-Arraignment Screening Form

The pre-arraignment screening form for § 87(2)(b) (encl. 33A-33C) indicates that he suffers from seizures and takes Dilantin 3 times a day. He complained of an injury to his chin, but there is no specification of the injury or how he sustained the injury.

NYPD Documents

SPRINT Report and Communications CD

SPRINT § 87(2)(b) (encl. 35A-35B) and the communications CD (encl. 34) revealed that § 87(2)(b) reported to IAB that the arrests of § 87(2)(b) and § 87(2)(b) and accused the officers of assaulting § 87(2)(b). Officers from housing responded to the scene and had two males under arrest.

Command Log

The command log (encl. 37) lists the arrest entries for § 87(2)(b) and § 87(2)(b). Both of their physical and mental conditions are listed as normal.

§ 87(2)(b)

■ [REDACTED]
[REDACTED]
■ [REDACTED]
[REDACTED]

Status of Civil Proceedings

- None of the individuals involved in this complaint have filed a Notice of Claim with the City of New York as of June 29, 2011 with regard to the incident (encl. 39).

§ 87(2)(b), § 87(2)(c) (impair contract awards or
CPA's)

■ [REDACTED]
[REDACTED]
■ [REDACTED]
[REDACTED]
■ [REDACTED]
[REDACTED]
■ [REDACTED]
[REDACTED]
■ [REDACTED]
[REDACTED]
■ [REDACTED]
[REDACTED]
■ [REDACTED]
[REDACTED]
■ [REDACTED]
[REDACTED]

Civilians CCRB History

- This is the first CCRB complaint filed by § 87(2)(b) (encl. 6), § 87(2)(b) (encl. 5), § 87(2)(b) (encl. 7), or § 87(2)(b) (encl. 8).
- § 87(2)(b) [REDACTED]
■ [REDACTED]
[REDACTED]
[REDACTED]

Subject Officers CCRB History

- Sgt. Gagliardi has been a member of the service for 8 years and there are no substantiated CCRB allegations against him (encl. 2).
- PO Alba has been a member of the service for 6 years and there are no substantiated CCRB allegations against him (encl. 3).
- PO Leiper has been a member of the service for 4 years and there are no substantiated CCRB allegations against him (encl. 4).

Conclusion

Identification of Subject Officers

§ 87(2)(b) [REDACTED] identified Sgt. Gagliardi and PO Tam from their badges. Police documentation linked PO Alba, PO Leiper and PO Carvajal to this incident. Sgt. Gagliardi, PO Alba and PO Leiper acknowledged their roles in this incident and the allegations were pleaded accordingly.

Allegations Not Pleased

- § 87(2)(b) [REDACTED] alleged that Sgt. Gagliardi used discourteous language against her, but she failed to provide the CCRB with a sworn statement. Because of this and the fact that her allegation was not corroborated by anyone else, it was not pleaded.
- § 87(2)(b) [REDACTED] alleged that PO Alba and PO Tam assisted in removing § 87(2)(b) [REDACTED] out of the car. This investigation, however, determined that PO Alba and PO Tam were not involved and therefore the allegations of force are not pleaded against them.

Investigative Findings and Recommendations

Allegation A-Force: PO Wilson Alba used physical force against § 87(2)(b)

Allegation B-Force: Sgt. Thomas Gagliardi used physical force against § 87(2)(b)

Allegation C-Force: PO Andrew Leiper physical force against § 87(2)(b)

§ 87(2)(b) alleged that when he argued with PO Alba inside of the police vehicle, PO Alba slapped him in the face. § 87(2)(b) sustained a cut to his lip as a result and he was later treated by EMS. § 87(2)(b) reported that she saw Sgt. Gagliardi punch § 87(2)(b). PO Alba testified that when he tried to grab the phone from § 87(2)(b), § 87(2)(b) tried to head bump him. In response, PO Alba pushed § 87(2)(b) in the head and chest with his arm. Sgt. Gagliardi and PO Leiper did not see the interaction with PO Alba, but observed PO Alba holding § 87(2)(b) in the back seat in the manner described by PO Alba.

§ 87(2)(b) further alleged that Sgt. Gagliardi, PO Alba, and PO Leiper pulled § 87(2)(b) out of the vehicle and dragged him to the van, punching him in the legs along the way. While § 87(2)(b) stated that § 87(2)(b) was moving around, he denied that he was resisting. § 87(2)(b) did not cooperate with this investigation and his testimony was not obtained. § 87(2)(b) testified that she observed PO Leiper hitting § 87(2)(b) on his right leg as he walked him to the van. § 87(2)(b) also witnessed Sgt. Gagliardi punch § 87(2)(b) on the legs. PO Alba admitted to pushing § 87(2)(b) in the chest, while in the vehicle after he spit at him. PO Alba and Sgt. Gagliardi testified that § 87(2)(b) attempted to kick Sgt. Gagliardi between the legs. Sgt. Gagliardi admitted to grabbing § 87(2)(b) by his ankle and pulling him out of the vehicle, which was corroborated by PO Leiper. While PO Alba testified that Sgt. Gagliardi dragged § 87(2)(b) by the arms, which Sgt. Gagliardi denied, PO Leiper indicated that § 87(2)(b) did not cooperate with walking to the van. All of the officers denied that any of them punched § 87(2)(b).

NYPD Patrol Guide Section 203-11 (encl. 1A-1B) states that officers can use only that amount of force necessary to overcome resistance to effect an arrest. § 87(2)(b), § 87(2)(g)

Team: 5

Investigator: _____ Noemi Martin July 27, 2011
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
 Title/Signature Print Date